

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TRUSTEES OF THE OPERATING
ENGINEERS PENSION TRUST, et al.,

2:11-CV-1179 JCM (PAL)

Plaintiffs,

V.

SEQUOIA ELECTRIC, LLC, et al.,

Defendants.

ORDER

Presently before the court is defendants Sequoia Electric, LLC, et. al.'s motion for temporary restraining order and preliminary injunction. (Doc. #27). Plaintiffs Trustees of the Operating Engineers Pension Trust, et. al. have not filed an opposition to the motion.

19 This motion for temporary restraining order and preliminary injunction arises from a case
20 alleging various claims for breach of a collective bargaining agreement. (Doc. #20). On December
21 5, 2011, plaintiffs submitted a letter to defendant Sequoia Electric Company, stating that an audit
22 of the financial records obtained in discovery revealed an outstanding balance of \$718,380.06. (Doc.
23 #27, Ex. C).

24 Defendants assert that they do not owe this amount because: (1) defendants are not alter egos
25 of each other, (2) only Sequoia Electric, LLC and Sequoia Electric Company were ever parties to the
26 master labor agreement (“the agreement”), and (3) the agreement expired on or about June 30, 2010.
27 (Doc. #27). Thus, defendants refused to pay plaintiffs the delinquency amount from the audit.

1 On December 14, 2011, plaintiffs submitted an official notice of delinquency, stating that
2 defendant Sequoia Electric Company owed \$1,186.99. (Doc. #27, Ex. D). Defendants made several
3 attempts to pay plaintiffs \$1,186.99 to be removed from the delinquent contractors list. (Doc. #27,
4 Exs. F and H). Defendants offered to pay this amount “until this matter can be resolved” and
5 asserted that plaintiffs were intentionally interfering with defendants’ contracts. (Doc. #27, Exs. F
6 and H). Plaintiffs rejected defendants’ offer, stating that they would not remove defendants from
7 the delinquent contractors list “until the entire audit claim of over \$700,000.00 is resolved.” (Doc.
8 #27, Ex. G). Plaintiffs’ rejection stated that “[p]lacing a contractor on the list is a valid contract
9 remedy available to the [t]rusts and one that they are rightfully using here.” (Doc. #27, Ex. G).

10 Defendants allege that, by placing defendants on the deficient contractors list, plaintiffs are
11 intentionally interfering with defendants’ contractual relationships with its contractors. (Doc. #27).
12 Specifically, defendants assert that four contractors have notified defendants that they will not make
13 payments totaling more than \$1,000,000.00 until defendants are removed from the deficient
14 contractors list. Defendants argue that “[t]his payment stoppage . . . threatens numerous public
15 works projects throughout the Las Vegas Valley.” (Doc. #27).

16 The instant motion requests injunctive relief to prevent plaintiffs from interfering with
17 defendants’ contractual relationships with general contractors. Specifically, defendants want: (1)
18 a temporary restraining order prohibiting plaintiffs from listing any of the defendants on the
19 delinquency list, and (2) a preliminary injunction prohibiting plaintiffs from listing any of the
20 defendants on the delinquency list for any issue arising out of this case pending the outcome of this
21 litigation. (Doc. #27).

22 Federal Rule of Civil Procedure 65 governs the issuance of temporary restraining orders and
23 preliminary injunctions. A temporary restraining order “should be restricted to serving [its]
24 underlying purpose of preserving the status quo and preventing irreparable harm just so long as is
25 necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto*
26 *Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974). Pursuant to Rule 65, the party moving for
27 a temporary restraining order must provide specific facts showing that immediate and irreparable
28

1 injury, loss, or damage will result before the adverse party's opposition to a motion for preliminary
2 injunction can be heard.

In the instant motion, defendants have not provided specific facts showing that they will suffer “immediate and irreparable” harm before plaintiffs can be heard in opposition. FED. R. CIV. P. 65. Therefore, defendants have not demonstrated that a temporary restraining order is appropriate under these facts. While the court declines to grant a temporary restraining order, the court will hold a hearing on defendants’ motion for preliminary injunction. (Doc. #27).

8 || Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants Sequoia
10 Electric, LLC, et. al.’s motion for temporary restraining order (doc. #27) be, and the same hereby is,
11 DENIED.

12 IT IS FURTHER ORDERED that a hearing on defendants' motion for preliminary injunction
13 is set for March 16, 2012, at 11:00 a.m. Plaintiffs shall file a response to defendants' motion for
14 preliminary injunction on or before March 9, 2012. Defendants must file their reply, if any, by
15 March 13, 2012.

16 DATED February 28, 2012.

UNITED STATES DISTRICT JUDGE